


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: November 6, 2016

SUBJECT: Fiscal Impact Statement – “Omnibus Alcoholic Beverage Regulation Amendment Act of 2016”

REFERENCE: Bill 21-849, Committee Print provided to the Office of Revenue Analysis on October 31, 2016

Conclusion

Funds are sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will likely increase the number of alcoholic beverage licenses and the associated license fee and sales tax revenue, but the total increased revenue is expected to be small.

Background

The bill changes various permissions, requirements, and penalties associated with the licensing and sale of alcoholic beverages in the District.

I. Changes to license requirements

The bill makes the following changes to alcoholic beverage license requirements:

- Clubs that have been incorporated for at least three months may now apply for an alcoholic beverage license. Currently, clubs must be incorporated for a year before filing for a license;
- Class B off-premises retailers (hotels) are permitted to have additional licenses, provided that the establishments: are located inside of the same hotel with no direct public access to the street, have no more than 25 percent of the total volume of annual gross receipts from the sale of alcoholic beverages, and any Area Neighborhood Commission opinion is given great weight;
- Lowers the maximum number of Class B off-premises retail licenses in the District to 275 from the current 300. The quota will not apply to internet sales, establishments not directly accessible to the public (such as hotel bars), or if the applicant receives less than 25 percent

of its total sales from alcohol. An applicant invoking the 25 percent of sales exemption, must meet several reporting requirements including a sworn annual statement reporting sales receipt totals;

- Licensed alcoholic beverage retailers must ensure all solid waste is stored in a way that will not harbor insects, rodents or other pests.

II. Changes to authorized sales under various licenses

The bill makes the following changes to authorized sales under alcoholic beverage licenses:

- Class A manufacturer licensees – breweries and distilleries – may now sell their products in cans and kegs. Currently only sale of barrels and sealed bottles are permitted;
- Class B off-premises retailer's licensees that are also a full-service grocery store,¹ may now sell wine in growlers. Currently, only sale of beer in growlers is permitted;
- Establishes a new bed and breakfast license, allowing bed and breakfast establishments to sell alcoholic beverages to registered guests for on-premises consumption. The license will have two classes: Class C/B for spirits, beer and wine, costing \$1,000 annually, and a class D/B for just beer and wine costing \$650 annually. Bed and breakfast licensees will be exempt from the prohibition of retail licenses in an area zoned for residential use;
- Establishes a separate internet retailer class of licenses, Class 1A (which may sell spirits, beer and wine) and Class 1B (which may sell only beer and wine);
- Brew pub permit holders may sell beer brewed at the pub in kegs, cans and bottles for off-premises consumption. Currently, brew pubs may sell only growlers. Brew pub permit holders at separate locations may now transport beer manufactured at one brew pub facility to another brew pub facility;
- Class C Manufacturers (makers of alcoholic baked goods) may apply for tasting permits and on-site consumption permits;
- Wholesaler classes A and B may utilize their space for sampling wine and beer, respectively;
- Exempts retailer licenses, class A and B, from the requirement that they operate more than 400 feet from schools and recreation centers, if the sale occurs only on the internet, or if in an establishment with no direct public access to the street.

III. Penalties and enforcement provisions

The bill makes the following changes to alcoholic beverage license authorities:

- Expressly prohibits tampering or refilling of bottles by a licensee. This includes changing labels on a container, diluting or tampering with contents and changing containers other than that in which it was purchased;
- The bill prohibits the possession, sale or purchase of powdered alcohol. Violators could be fined up to \$1,000.

IV. Other technical changes

The bill makes several technical changes and defines new terms in the alcoholic beverage regulation code, including:

- Bed and breakfast is defined as an establishment where food and lodging are regularly furnished to transients and has less than 30 guest rooms and a dining room in the same or connected buildings;

¹ Grocery stores must meet the requirements of D.C. Official Code § 25-331(d).

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- Defines a full-service grocery store as a retail establishment licensed as a grocery store for business purposes² and meets several other criteria including range of products sold, and 50 percent of the establishment space, or at least 6,000 square feet, is dedicated to food. The Board will apply the grocery store definition to applications after January 13, 2013. This codifies a definition already in the regulations;
- The bill adds limited liability companies or partnerships to the definition of a club. Currently a club must be a corporation;
- The definition of a growler is modified to include wine growlers;
- Powdered alcohol is defined as a beverage product manufactured into a powdered or crystalline form;
- Valid identification documents list now includes military identifications that do not have a signature, provided a photograph, name, and date of birth are on the document;
- The days Council is on recess are excluded from the required 90-day review period of proposed regulations;
- The requirement that regulations be published in a newspaper of general circulation in the District is removed;
- The bill makes clarification to the code regarding how on-premises retailers may now buy alcoholic beverages from off-premises retailers, class A, but only on Saturday, Sunday or holidays during the hours when wholesalers are closed. This is already allowed;
- Marine vessels based out of the District and internet retailers applying for licenses will not have to post notices with information about the application and protest period;
- Includes a technical correction to allow pub crawl licensees to also have a separate on-premises retailer's license. Currently, the code does not allow that.

Financial Plan Impact

Funds are sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will likely increase the number of alcoholic beverage licenses and the associated license fee and sales tax revenue, but the total increased revenue is expected to be small. The exact amount of revenue is uncertain because the new classes of licenses have no historical data, and expected sales for the other types of licenses is dependent the business model of the license applicants. There are no additional costs expected by the bill. The Alcoholic Beverage Regulation Administration can administer and enforce all of the changes made by the bill within current resources.

² Under D.C. Official Code § 47-2827.